

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ALABAMA
SOUTHERN DIVISION

GEORGE ROWE,

Plaintiff,

v.

SGT. RONALD CARTER, *et al.*,

Defendants.

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Case No. 2:07-cv-01256-IPJ-PWG

MEMORANDUM OF OPINION

The magistrate judge filed a report and recommendation on October 4, 2007, recommending that this action be dismissed for failing to state a claim upon which relief can be granted, pursuant to 28 U.S.C. § 1915A(b)(1). The plaintiff filed objections to the report and recommendation on October 16, 2007. (Doc. #11). The core of the plaintiff's objections is directed at his equal protection claim. He asserts that the defendants failed to conduct an impartial investigation of the incident described in the complaint because of his alleged homosexuality. Although the Supreme Court has not recognized sexual orientation as a suspect classification for equal protections purposes, it is clear that the state cannot disadvantage homosexuals "for reasons lacking any rational relationship to legitimate governmental aims." *Johnson v. Johnson*, 385 F.3d 503, 532 (5th Cir. 2004). However, claims alleging equal protection violations must contain specific allegations which show that similarly situated persons received more favorable treatment. *Jones v. Ray*, 279 F.3d 944, 946-47 (11th Cir. 2001). Thus, vague or conclusory allegations, as those set forth in the plaintiff's objections, will not suffice to state a claim. *See Asad v. Bush*, 170 Fed.Appx. 668, 673 (11th Cir.

2006) (Not Selected for Publication in the Federal Reporter). In this instance, the plaintiff has failed to assert specific facts which show that he received less favorable treatment than similarly situated prisoners or that any of the defendants' actions were the result of bias.

Therefore, having carefully reviewed and considered *de novo* all the materials in the court file, including the report and recommendation and the objections thereto, the Court is of the opinion that the magistrate judge's report is due to be and hereby is ADOPTED and the recommendation is ACCEPTED. Accordingly, the complaint is due to be dismissed for failing to state a claim upon which relief can be granted, pursuant to 28 U.S.C. § 1915A(b)(1). A Final Judgment will be entered.

DATED this 25th day of October 2007.

A handwritten signature in cursive script, reading "Inge Prytz Johnson", is written over a horizontal line.

INGE PRYTZ JOHNSON
U.S. DISTRICT JUDGE